

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
February 12, 2009**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Thursday, February 12, 2009 in Room, #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Bud Alldredge, D.V.M., President, called the meeting to order at 8:31 a.m. Board Members present were Patrick Allen, D.V.M., Vice-President; Janie Carpenter, D.V.M., Secretary; John Clader, D.V.M.; David Heflin, D.V.M., Mr. David Kercheval, Mr. Paul Martinez, and David Rosberg, D.V.M. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Nicole Oria, General Counsel; Ina Franz, Director of Licensing; and Loris Jones, Executive Assistant.

Dr. Heflin moved, Mr. Martinez seconded and the motion passed to approve the absence of Cynthia Diaz.

Agenda Item 2, Approval of Minutes. Dr. Clader moved, Dr. Rosberg seconded and the motion passed to approve the minutes of the October 16, 2008 Board meeting.

Agenda Item 3, Citizen Comments. Dr. Alldredge called for citizen comments. Mr. Greg Munson and Ms. Julie Catalano addressed the Board.

Dr. Carpenter moved, Dr. Allen seconded and the motion passed to go into Executive Session at 8:42 a.m. for private consultation and advice of counsel concerning settlement offers, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071 and Occupations Code §801.407(d); and Attorney General's Opinion No. H-484. Open session resumed at 9:54 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 4, Discussion, recommendation and possible action regarding approval of Continuing Education credit for Incident Management courses developed by the Federal Emergency Management Agency relating to Incident Management. Dr. Suzanne Burnham, DVM with the Texas Department of State Health Services discussed the importance of local veterinarians in the preparedness and response of their communities during natural disasters and other incidents. Dr. Burnham further presented an overview of the continuing education (CE)

specifically regarding the content, length of the CE, and the amount of credit attendees would receive.

Agenda Item 5, Discussion of issues for the 81st Legislative Session. Mr. Helmcamp discussed possible legislation that had already been or would be proposed relating to TBVME, specifically HB 378 by Representative Sid Miller which would add floating a horse's teeth to the accepted livestock management practices. Mr. Helmcamp also noted that staff has been working with Representative Jimmy Don Aycock's office regarding clean up language to the Veterinary Licensing Act and that legislation was expected to be introduced in the coming weeks.

Dr. Alldredge recognized Ethel Spence with the Texas Animal Control Association who discussed the potential legislation regarding the possession or distribution of certain controlled substances by certain persons for purposes of a humane society or animal control agency, specifically Telazol and Ketamine. Representatives from the Texas Veterinary Medical Association, Chris Copeland and Anmarie Macfarland; and representatives from the Texas Department of Public Safety, Jody Patterson, Pat Knue, and Sarah Carnes-Lemp discussed the issue of allowing non-licensed individuals in an animal control agency or humane society setting to possess or distribute certain controlled substances.

Agenda Item 10, Presentation by National Board of Veterinary Medical Examiners (NBVME) members on the Functions and Organization of the Board. Mr. Helmcamp introduced Tom Hairgrove, Ben Franklin, and James Dalley who presented information regarding the individual functions of the NBVME and the organizational make up of NBVME.

Agenda Item 11, Discussion and possible action regarding future April State Board Exams at Texas A&M University. Ms. Franz introduced Les Fiechtner with Texas A&M University College of Veterinary Medicine who discussed the problems which would face Texas A&M students should TBVME go to a strictly on-line State Board Examination format. After discussion, **Dr. Clader moved, Mr. Kercheval seconded, and the motion passed** to approve staff to continue to administer the State Board Exam in April at the College Station campus of Texas A&M.

Agenda Item 12, Presentation by Professor Alan J. Roussel, Jr, D.V.M., M.S., Texas A&M University College of Veterinary Medicine concerning Special License Issues. Dr. Roussel discussed the need for a special license to be issued by the Board to allow out of state veterinarians to work on graduate and other programs at the Texas A&M University College of Veterinary Medicine. The College has experienced a significant decrease in the number of applicants for positions due to the difficulty in procuring a regular Texas license.

Agenda Item 6, Licensure Petitions.

a. Discussion, recommendation and possible action on petitions to have license reissued upon passage of the State Board Exam.

1. Jonathan K. K. Stone, D.V.M. Dr. Stone is petitioning the board to allow him to sit for the State Board Examination for licensing to regain his Texas veterinary license. Dr. Stone was originally licensed by this board on May 15, 1998. Subsequently, his license was cancelled on March 1, 2000 for failure to renew as provided by law. In the fall of 2008, Dr. Stone spoke with the licensing director regarding the procedures to regain his Texas license. He proceeded to forward information regarding an application as required. During this initial process, it was discovered that Dr. Stone has a suspended license in North Carolina based on two felony drug convictions in North Carolina. He originally entered into an agreed order with North Carolina in order to be able to maintain his license in that state. However, due to a charge of possession and use of the controlled substance cocaine on or about December 3, 2007, Dr. Stone and North Carolina entered into an agreement that he relinquish his license in that state. The Texas veterinary medical license application process is suspended at this time until Dr. Stone can appeal to the Texas Board and gain their approval to allow him to continue the process and ultimately take the licensing examination to regain his Texas license. After discussion, **Dr. Clader moved, Dr. Allen seconded and the motion passed to allow Dr. Stone to sit for the State Board Exam** with the following conditions: Dr. Stone is required to:

- Dr. Stone must complete the requirements of his suspension in North Carolina;
- Dr. Stone must complete 17 hours of Continuing Education;

- Dr. Stone must provide information regarding his peer assistance history in both Texas and North Carolina,
- Dr. Stone must take and pass the State Board Examination in June; and
- Dr. Stone must appear before the Board at the regularly scheduled meeting on June 11, 2009.

b. Discussion, recommendation and possible action on petitions to waive the Clinical Competency Test.

- 1. William John Ehler, DVM.** Dr. Ehler is a 1974 graduate of the University of California at Davis, College of Veterinary Medicine. Upon graduation, Dr. Ehler took and passed the National Board Examination (NBE) in California. After passing the NBE, Dr. Ehler earned a veterinary license in California, Oregon, Iowa, New York and Washington, some of which he maintains in active status to present day. Dr. Ehler joined the United States Air Force in 1962 and was honorably discharged in 1968. In 1974 through 1975, he was an intern at Iowa State. As a surgical resident, he worked at the Animal Medical Center in New York City from 1977 through 1979. From 1979 until 2002, Dr. Ehler was the Deputy Director for the Clinical Investigation Directorate at Lackland Air Force Base. Since 2002, he has been a consultant in surgery and hyperbaric medicine. After discussion, **Mr. Kercheval moved, Dr. Clader seconded and the motion passed to approve the waiver** with the following conditions: Dr. Ehler is required to take and pass the State Board Examination within one year of the approval of his waiver.
- 2. Lawrence Paul Ruhr, DVM.** Dr. Ruhr is a 1976 graduate of the Oklahoma State College of Veterinary Medicine. Upon graduation, Dr. Ruhr took and passed the National Board Examination (NBE) in Oklahoma. After passing the NBE, Dr. Ruhr earned his license in Missouri, where he worked as a research associate at the University of Missouri in the department of veterinary anatomy/physiology. Upon graduation from the University of Missouri with a PhD in pathology, he joined the faculty of the veterinary medical school at Louisiana State. In 1981, while on the faculty, he earned certification as a Diplomate of the American Board of Veterinary Toxicology. In 1986, Dr. Ruhr moved to a position in

the industrial realm, accepting a position as a senior research specialist with Dow Corning in Midland, Michigan. After a two year leave of absence from Dow Corning, during which time he worked as a consultant in Hong Kong, Dr. Ruhr returned to the United States but did not resume his full time position with Dow Corning, rather working as a consultant for said company. He earned his veterinary license in Michigan at that time. After discussion, **Mr. Kercheval moved, Mr. Martinez seconded and the motion passed to approve the waiver** with the following conditions: Dr. Ruhr is required to take and pass the State Board Examination within one year of the approval of his waiver.

3. **Gary L. Sparschu, DVM.** Dr. Sparschu is a 1965 graduate of the Michigan State University, College of Veterinary Medicine. Upon graduation, Dr. Sparschu took and passed the National Board Examination (NBE) in Pennsylvania. After passing the NBE, Dr. Sparschu earned his license in Pennsylvania and Michigan. From 1966 until 1968, he served in the US Army as a veterinary pathologist. Thereafter, he worked for the Dow Chemical Company in Michigan. In 1974 until 2006, he co-owned Veterinary Associates, an AAHA certified small animal clinic, and practiced continuously until the clinic was sold in 2006. After discussion, **Dr. Carpenter moved, Dr. Allen seconded and the motion passed to approve the waiver** with the following conditions: Dr. Sparschu is required to take and pass the State Board Examination within one year of the approval of his waiver. Dr. Sparschu is further required to obtain 17 hours of continuing education.

4. **David Kinkaid, D.V.M.** Dr. Kinkaid is a 1970 graduate of the Oklahoma State College of Veterinary Medicine. Upon graduation, Dr. Kinkaid took and passed the National Board Examination (NBE) in Oklahoma and Arizona. After passing the NBE, Dr. Kinkaid earned his license in Oklahoma which he has maintained to present day. Dr. Kinkaid has been in continuous practice since his initial licensing in Oklahoma. He also earned a license in Kansas in 1998 which he allowed to lapse. According to documentation received, Dr. Kinkaid voluntarily entered into an Agreed Order with the Oklahoma Board in 2004 due to him being found in violation of the Oklahoma Veterinary Practice Act, inasmuch as he allowed an unlicensed individual to practice in his clinic. A letter dated January 6, 2009, received from Cathy Kirkpatrick, the Oklahoma Board's Executive

Director, indicates that Dr. Kinkaid has met all board ordered requirements set out in the aforementioned Agreed Order, and he is currently in good standing. After discussion, **Dr. Rosberg moved, Dr. Heflin seconded and the motion passed to approve the waiver** with the following conditions: Dr. Kinkaid is required to take and pass the State Board Examination within one year of the approval of his waiver.

c. Discussion, recommendation and possible action on petitions to reinstate previously cancelled license.

1. Lynn B. Dumas, D.V.M. Dr. Dumas appeared with counsel, Keith O'Connell, to discuss issues regarding practicing veterinary medicine prior to her license in Texas being reinstated. After discussion, **Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to reinstate Dr. Dumas' license** with the following terms and conditions:

- Dr. Dumas must sign a Cease and Desist Order stating that she will not practice veterinary medicine without a license. Upon receipt of the signed Cease and Desist Order, the license will be issued;
- Dr. Dumas must pay a \$1,000 administrative penalty;
- Dr. Dumas must submit for approval, the name of a monitoring veterinarian to the Executive Director;
- Dr. Dumas must work under the general supervision of the approved monitor for 1 year;
- The approved monitor must submit two reports (at 6 and 12 months of the 1 year term) regarding Dr. Dumas' proficiency;
- Dr. Dumas must submit quarterly reports regarding at least 2 cases per quarter;
- Must take and pass the State Board Exam within 1 year of the reinstatement of her license.

Agenda Item 7, Consideration and approval of Agreed Orders. Dr. Carpenter moved, Mr. Martinez seconded, and the motion passed to approve the Agreed Orders on the following:

Justin Cerelli, DVM; Penny Kelso, DVM; Jackie A. Valerius, DVM; Larry B. Miller, DVM; Liat E. Zilkha, DVM; Cheryl Staples, DVM; Sandra Leyendecker, DVM; Roberta L. Westbrook, DVM;

Jacob R. Worthington, DVM; Kathleen A. Wallace, DVM; Quentin J. Brands, DVM; Robert A. Williams, DVM; Sarah Robertson-Goodyear, DVM; Joel B. Akin, DVM (2 separate orders); Elizabeth A. Wills, DVM; Richard H. Shepherd, DVM; Conrad C. Whitfield, DVM; Gail Funk, DVM; Michael Schmurr, DVM; Sonya McClendon, DVM; Edward Todd, DVM; Kenneth Williams, DVM; Daniel Hendrix, DVM; R.A. Dennis, DVM; and Lynn Dumas, DVM.

Agenda Item 8, Consideration and approval of Cease and Desist Orders. Mr. Kercheval moved, Dr. Carpenter seconded, and the motion passed to approve the Agreed Orders on the following cases numbers: 08-092, 08-124, and 08-186.

Agenda Item 9, Discussion, recommendation and possible action regarding Termination of Suspension Petitions.

1. Christopher S. Arnold, DVM. Ms. Oria presented information regarding the suspension of Dr. Christopher Arnold's license and the options available to the Board on terminating the suspension. Dr. Arnold addressed the board regarding his petition to have the suspension on his license terminated. After discussion, **Mr. Kercheval moved, Dr. Allen seconded to approve that Dr. Arnold's license be reinstated with the following terms and conditions:**

- Dr. Arnold must participate in the Peer Assistance Program with Dr. Herbert Munden;
- Dr. Arnold must be current with his continuing education hours;
- Dr. Arnold must work under the supervision of a monitor; and
- Dr. Arnold must take and pass the State Board Exam within 1 year of his reinstatement.

After further discussion, **Mr. Kercheval moved and Dr. Allen seconded and the motion passed to withdraw the previous motion. Mr. Kercheval then moved and Dr. Allen seconded, and the motion passed** to allow Dr. Arnold to take the State Board Exam and to appear before the Board at the regularly scheduled June 11, 2009 meeting. It was also suggested that Dr. Arnold enter into and participate in the Peer Assistance Program with Dr. Herbert Munden.

Agenda Item 13, Report from the Rules Committee. The rules committee met as part of the full Board meeting, Mr. Guinn presented the rules that were up for adoption.

a. Discussion, recommendation, and possible action on rules to be adopted. The following changes to Board rules were proposed at the October 16, 2008 Board meeting and were considered for adoption:

1. 571.3, Eligibility for Examination and Licensure
2. 573.52, Patient Record Keeping
3. 573.54, Transfer and Disposal of Patient Records
4. 575.5, Subpoenas/Witness Expenses; and
5. 573.65, Definitions;

After discussion by the Board, **Dr. Heflin moved, Mr. Martinez seconded and the motion passed to adopt the proposed amendments to §§571.3, 573.52, 573.54, 575.5, and 573.65.**

Agenda Item 14, Approval of December 30, 2008 Executive Committee Minutes, regarding Michael A. Schmurr, D.V.M., Temporary Suspension Without Notice. Mr. Kercheval moved, Dr. Rosberg seconded and the motion passed to approve the minutes of the December 30, 2008 Executive Committee meeting.

Agenda Item 15, Approval of January 8, 2009 Enforcement Committee Minutes, regarding Michael A. Schmurr, D.V.M., Temporary Suspension With Notice. Dr. Heflin moved, Mr. Martinez seconded and the motion passed to approve the minutes of the January 8, 2009 Enforcement Committee meeting.

Agenda Item 16, Consideration and approval of the February 14, 2008 Board Meeting Minutes. Dr. Carpenter moved, Mr. Martinez seconded and the motion passed to approve the minutes of the February 14, 2008 Board Meeting, these were brought forward for approval a second time after a clerical error had been identified and corrected.

Agenda Item 17, Consideration and approval of Board Meeting dates for Calendar Year 2010. Mr. Martinez moved, Mr. Kercheval seconded and the motion passed to approve the Board Meeting dates for Calendar Year 2010.

Agenda Item 18, Executive Director's Report.

- a. **Report on Health Professions Council (HPC) Activities.** Mr. Helmcamp gave a brief update on HPC activities.
- b. **Report on 2009 License Renewals.** Ms. Franz discussed the annual renewals as of January 23, 2009.
- c. **Report on State Board Exams.** Ms. Franz discussed the results of the October 13, 2008 and December 8, 2008 State Board Exams, noting the 100% pass rate for each exam.
- d. **Status of FY2009 Operating Budgets.** Mr. Keith Cole, Chief Fiscal Officer, gave a brief overview of the FY2009 budget.
- e. **Board Performance Update.**
 1. **Enforcement Report:** Mr. Hartline discussed the Enforcement side of the agency and noted that they have been conducting on-site compliance visits and that there has been a trend of increased number of complaints received with only a slight increase in the average resolution time.
 2. **Licensing and Examinations Report:** Mr. Helmcamp discussed the statistics related to Licensing and Examinations, as of January 23, 2009 we had 7,132 licensed veterinarians in all categories.
 3. **Peer Assistance Report:** Mr. Helmcamp mentioned that there are currently fifteen veterinarians under the Peer Assistance program.
- f. **Report on discussion with Texas Veterinary Medical Association.** Mr. Helmcamp mentioned that discussions with the TVMA have been ongoing and continue to be productive.
- g. **Report on availability of the American Association of Veterinary State Boards (AAVSB) Staff Report on DVD.** Mr. Helmcamp informed the members that the staff has a copy of the AAVSB Staff Report available for viewing should anyone be interested.

Agenda Item 19, discussion and possible action regarding Executive Director's Annual Performance Evaluation. Dr. Carpenter moved, Dr. Clader seconded and the motion passed

to go into Executive Session at 4:42 p.m. to discuss matters involving the appointment, employment, evaluation, and salary of the Executive Director under the authority of the Open Meetings Act, Government Code, §551.074. Open session resumed at 5:23 p.m. and it was announced that no action was taken. A certified agenda was made.

There being no further business, the meeting was adjourned at 5:25 p.m.